



CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

COPY MAILED

JAN 31 2007

OFFICE OF PETITIONS

In re Application of Ketchum :
Application No. 09/788,274 :
Filing Date: February 16, 2001 :
Attorney Docket No. 101095-0030 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2006, to revive the above-identified application.

The petition is **granted**.

Petitioner failed to take appropriate action in a timely manner after the decision of December 10, 2004, by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(c). As no claim was allowed, the above-identified proceedings were terminated as of February 11, 2005. See MPEP 1214.06. A Notice of Abandonment was mailed April 6, 2005.

The instant petition requests revival of the application.

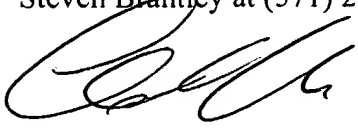
Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Patricia Sheehan signed the instant petition. Sheehan was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Sheehan was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Sheehan that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Technology Center Art Unit 3764 will be informed of the instant decision and the application, including the RCE and amendment filed July 15, 2005, will be further examined in due course.

¹ See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Telephone inquiries regarding this communication should be directed to Petitions Attorney
Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions